

110TH CONGRESS
1ST SESSION

S. 2426

To provide for congressional oversight of United States agreements with
the Government of Iraq.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2007

Mr. REID (for Mrs. CLINTON) introduced the following bill; which was read
twice and referred to the Committee on Foreign Relations

A BILL

To provide for congressional oversight of United States
agreements with the Government of Iraq.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Congressional Over-
5 sight of Iraq Agreements Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) President George W. Bush has announced
9 a Declaration of Principles for a Long-Term Rela-
10 tionship of Cooperation and Friendship with Iraq,

1 with the goal of concluding a final agreement be-
2 tween the United States and Iraq by July 31, 2008.

3 (2) The Declaration envisions commitments
4 that directly affect the national security of the
5 United States, including “security assurances and
6 commitments to the Republic of Iraq to deter for-
7 eign aggression”.

8 (3) The Declaration fails to make clear that the
9 United States will not seek and will not maintain
10 permanent military bases in Iraq.

11 (4) The Declaration fails to specify the future
12 mission profile of United States forces in Iraq, the
13 future number of United States forces deployed to
14 Iraq, and the length of deployments for United
15 States forces in Iraq.

16 (5) The Declaration fails to specify the extent
17 to which United States military personnel and gov-
18 ernment contractors will be accountable under the
19 laws of Iraq.

20 (6) On November 26, 2007, Assistant to the
21 President and Deputy National Security Advisor for
22 Iraq and Afghanistan Lieutenant General Douglas
23 Lute stated, “We don’t anticipate now that these ne-
24 gotiations will lead to ... formal inputs from the
25 Congress.”

1 (7) Section 8113 of the Department of Defense
2 Appropriations Act, Fiscal Year 2008 (Public Law
3 110–116; 121 Stat. 1339), which was signed into
4 law on November 13, 2007, stated that no funds
5 may be used “[t]o establish any military installation
6 or base for the purpose of providing for the perma-
7 nent stationing of United States Armed Forces in
8 Iraq”.

9 (8) Congress is a co-equal branch of govern-
10 ment and as such the extension of long-term United
11 States security commitments to Iraq that obligates
12 or requires the appropriation of United States funds
13 requires the full participation and consent of Con-
14 gress.

15 (9) Under the Constitution, legislative approval
16 of an international agreement can take the form ei-
17 ther of approval of a treaty by two-thirds of the Sen-
18 ate under Article II or authorization of the agree-
19 ment by a simple majority of both houses of Con-
20 gress under Article I.

21 (10) Past presidential practice with regard to
22 international agreements other than treaties has
23 been regulated by Department of State guidelines
24 that call for “due consideration” of “the extent to
25 which the agreement involves commitments or risks

1 affecting the nation as a whole,” “whether the
 2 agreement can be given effect without the enactment
 3 of subsequent legislation by the Congress,” and “the
 4 preference of the Congress”.

5 **SEC. 3. CONCLUSION OF BILATERAL AGREEMENT WITHOUT**
 6 **CONGRESSIONAL APPROVAL.**

7 (a) REPORT ON JUSTIFICATION FOR DENYING CON-
 8 GRESSIONAL ROLE IN CONCLUDING AGREEMENT.—

9 (1) IN GENERAL.—Not later than 60 days after
 10 the date of the enactment of this Act, the Legal Ad-
 11 visor to the Secretary of State shall submit to Con-
 12 gress an unclassified report providing the justifica-
 13 tion for the decision of the President to deny Con-
 14 gress its constitutionally protected role by concluding
 15 an agreement on the future of the security relation-
 16 ship between the United States and Iraq as an exec-
 17 utive agreement.

18 (2) LEGAL ANALYSIS OF CONSTITUTIONAL AU-
 19 THORITY REQUIRED.—The report required under
 20 paragraph (1) shall include a legal analysis of the
 21 constitutional powers asserted by the President in
 22 concluding that such an agreement does not require
 23 approval by Congress.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
 25 gress that any bilateral agreement between the United

1 States and Iraq involving “commitments or risks affecting
2 the nation as a whole”, including a status of forces agree-
3 ment (SOFA), that is not a treaty approved by two-thirds
4 of the Senate under Article II of the Constitution or au-
5 thorized by legislation does not have the force of law.

6 (c) PROHIBITION ON USE OF FUNDS TO CARRY OUT
7 CERTAIN AGREEMENTS.—No funds may be authorized or
8 appropriated to carry out any bilateral agreement between
9 the United States and Iraq involving “commitments or
10 risks affecting the nation as a whole”, including a status
11 of forces agreement (SOFA), that is not a treaty approved
12 by two-thirds of the Senate under Article II of the Con-
13 stitution or authorized by legislation passed by both
14 houses of Congress.

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